

# Exhibit “D”

## Kenneth McLellan

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**From:** Alex Kaufman <akaufman@chalmersadams.com>  
**Sent:** Wednesday, February 22, 2023 10:28 AM  
**To:** Kenneth McLellan  
**Cc:** eunderriner@hallboothsmith.com; Keith Roussel  
**Subject:** Re: Garmashov v USPA

For settlement negotiation purposes only under 408

Ken-

I'm not going to revisit the issue of the plain language of the word "execution" or the concept that the court enforced a settlement agreement- I.e. that the found agreement is that was to be executed (meaning performed) not write a more comprehensive version as an agreement existed

The issue, now that you have finally (albeit unnecessarily) made a comprehensive draft that mirrors the enforced agreement, is it has a mutual release, and Mr. Garmashov wishes to attempt to recover his additionally incurred damages as a result of your actions and that of USPA -which occurred after the Order.

So as discussed previously in these negotiations- USPA is encouraged to finally perform its obligations that they have been delinquent in doing so since November. Mr. Garmashov still wishes to address many of the issues raised in his contempt motion. Of course, if USPA performs, he will dismiss his contempt motion, but will still seek his fees and the back interest.

Mr. Garmashov is prepared to execute the unnecessary comprehensive draft so long as there is a carve out that allows him to pursue USPA and its counsel for his damages. Alternatively, and what is Mr. Garmashov's preference, is to negotiate a final resolution whereby his additional damages and/or reinstatement is satisfactorily addressed in lieu of appearing before the magistrate on April 4.

## Alex B. Kaufman, Esq.

Member



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On Feb 22, 2023, at 9:44 AM, Kenneth McLellan <mclellan.k@wssl.com> wrote:

Alex-

Thanks for your email.

I've removed Mr. Garmashov's email address to the reply, as I don't communicate directly with clients.

Judge Koeltl's Order clearly required further writing which is why the Order states, "The Magistrate should supervise ***the execution of the settlement agreement....***" (emphasis added). If no further writing was required, then there would be nothing to "execute" and nothing for the Magistrate to supervise. And this is consistent with the parties' communications and actions following the mediation and Judge Koeltl's Order.

In an effort to resolve any disagreements, misunderstandings or confusion regarding the language of the Settlement Agreement, USPA provided Mr. Garmashov a revised, streamlined version of the Settlement Agreement on 2/21 that was not only consistent with Judge Koeltl's Order but also provided for faster payment than the parties had previously agreed.

In response to this revised version of the Settlement Agreement, Mr. Garmashov objected to only two paragraphs – the second and third paragraphs of Section 8. Although USPA believed (and still believes) that those paragraphs are consistent with Judge Koeltl's Order, USPA agreed to remove those paragraphs in order to finalize the Settlement Agreement and move forward.

Despite the fact that the parties have now agreed to the language of the Settlement Agreement, Mr. Garmashov is refusing to sign the Settlement Agreement unless USPA agrees to a separate settlement agreement to resolve Mr. Garmashov's recently filed contempt motion.

Mr. Garmashov's position makes no sense and is highly improper.

As you know, the Magistrate stayed the contempt motion. If the stay is lifted and Mr. Garmashov wants to continue to pursue that motion following the parties' execution of the Settlement Agreement, he is free to do so and USPA will respond at the proper time.

-Ken

Very truly yours,

Kenneth A. McLellan  
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**From:** Alex Kaufman <akaufman@chalmersadams.com>  
**Sent:** Tuesday, February 21, 2023 7:15 PM  
**To:** Kenneth McLellan <mclellan.k@wssllp.com>  
**Cc:** eunderriner@hallboothsmith.com; Keith Roussel <roussel.k@wssllp.com>; Yuri Garmashov <yurig.garmashov@gmail.com>  
**Subject:** Re: Garmashov v USPA

For Settlement Negotiation Purposes Only. Not admissible for any purposes

Ken-

I have conferred with Mr. Garmashov. As suspected, your overture is too little too late. It should have been done in November 2022 at the latest. As discussed, the Order does not require any further writing, and USPA should have executed its obligations immediately per the Order. At this juncture, due to the nearly [REDACTED] in added and unnecessary expenses at your and your client's hands, Mr. Garmashov's position remains the same as yesterday in most respects. You are welcome to, and encouraged, to avoid the contempt action by complying in full with the order. In which case, we will withdraw the contempt action but seek an action against those responsible for the approximately [REDACTED] in interest and attorney's fees incurred.

Alternatively, Mr. Garmashov is prepared to negotiate a complete resolution upon receipt of the [REDACTED] as well as additional funds to cover his costs and lost interest (which he is open to reasonably negotiate) and/or re-admission of his membership and ratings.

We encourage you to take this offer to the entire USPA Board as well as your partners.

Alex

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